

ZONING MAP ORDINANCE NO. Z- 10-91.

AN ORDINANCE amending the City of
Fort Wayne Zoning Map No. F-2.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is
hereby designated a B-2-D (Regional Shopping Center)
District under the terms of Chapter 33 of the Code of the
City of Fort Wayne, Indiana of 1974:

PARCEL "A"

Part of Lot #11 in Samuel Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana more particularly described as follows: COMMENCING at the Northwest corner of Lot #11 in Edsall's Subdivision in the LaGro Reserve; thence South 0 degrees 19 minutes 45 seconds East along the West line of said lot a distance of 75.0 feet to a point on the South right-of-way line of Illinois Road, said point being the point of beginning. BEGINNING at the above described point; thence continuing South 0 degrees 19 minutes 45 seconds East along said West line a distance of 639.87 feet; thence North 89 degrees 13 minutes 37 seconds East and parallel to the North line of said lot a distance of 150.0 feet; thence North 0 degrees 19 minutes 45 seconds West and parallel to said West line a distance of 300.0 feet; thence North 89 degrees 13 minutes 37 seconds East and parallel to said North line a distance of 115.95 feet; thence North 0 degrees 33 minutes 03 seconds West a distance of 339.87 feet to a point on the South right-of-way line of Illinois Road; thence South 89 degrees 13 minutes 37 seconds West along said right of way a distance of 264.64 feet to the point of beginning. Parcel contains 3.10 acres of land, more or less.

PARCEL "B"

Part of Lot #10 in Edsall's Subdivision LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, and more particularly described as follows, to-wit: COMMENCING at the Northeast corner of Lot #10 in Edsall's Subdivision of LaGro Reserve; thence South 0 degrees 19 minutes 45 seconds East along the East line of said Lot #10 a distance of 573.00 feet to the point of beginning. BEGINNING at the above described point; thence continuing South 0 degrees 19 minutes 45 seconds East a distance of 340.0 feet to the Southeast corner of said Lot; thence South 89 degrees 05 minutes 18 seconds West along the South line of said lot a distance of 216.51 feet to a point located 295.0 feet East of the West line of said lot; thence North 0 degrees 20 minutes 08 seconds West parallel with said

West line a distance of 340.0 feet; thence North 89 degrees 05 minutes 18 seconds East parallel with said South line a distance of 216.55 feet to the point of beginning. Parcel contains 1.69 acres of land, more or less.

PARCEL "C"

Part of Lot #19 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, and more particularly described as follows, to wit: COMMENCING at the Southwest corner of said Lot #19; thence North 89 degrees 30 minutes East along the South line of said Lot #19 a distance of 295.0 feet to the point of beginning. BEGINNING at the above described point; thence North 0 degrees 20 minutes 08 seconds West and parallel with the West line of said lot a distance of 89.26 feet; thence North 89 degrees 30 minutes East and parallel to said South line a distance of 194.54 feet; thence South 0 degrees 34 minutes 41 seconds West a distance of 89.27 feet to a point on the South line of said lot; thence South 89 degrees 30 minutes West along said South line a distance of 193.11 feet to the point of beginning. Parcel contains 0.40 acres of land, more or less.

PARCEL "D"

Part of Lot #22 and Lot #23 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, and more particularly described as follows, to-wit: COMMENCING at the Northwest corner of Lot #22 in Edsall's Subdivision of LaGro Reserve; thence North 89 degrees 30 minutes East along the North line of said Lot #22 a distance of 295.0 feet to the point of beginning. BEGINNING at the above described point; thence continuing North 89 degrees 30 minutes East along the North line of said Lot a distance of 680.76 feet to the Northeast corner of said lot; thence South 0 degrees 42 minutes 01 seconds East along the East line of said Lot #22 and Lot #23 a distance of 649.03 feet; thence South 89 degrees 21 minutes 28 seconds West a distance of 484.91 feet; thence North 0 degrees 20 minutes 08 seconds West and parallel to the West of Lot #23 a distance of 72.16 feet; thence South 89 degrees 21 minutes 28 seconds West a distance of 200.0 feet to a point 295.0 feet East of the West line of Lot #23; thence North 0 degrees 20 minutes 08 seconds West and parallel with the West line of Lots #22 and 23 a distance of 578.57 feet to the point of beginning. Parcel contains 9.86 acres of land, more or less.

PARCEL "E"

Part of Lot #23 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit: COMMENCING at the Northwest corner of said Lot #23; thence Southerly, along the West line of said Lot #23, a distance of 214.4 feet; thence North 89 degrees 21 minutes 28 seconds East and parallel with the North line of Lot #23, a distance of 295.0 feet to the point of beginning. BEGINNING at the above

described point; thence continuing North 89 degrees 21 minutes 28 seconds East parallel with the North line of said Lot #23, a distance of 200.0 feet; thence North 0 degrees 20 minutes 08 seconds West parallel with the West line of said Lot #23, a distance of 72.16 feet; thence South 89 degrees 21 minutes 28 seconds West parallel with the North line of said Lot #23, a distance of 200.0 feet; thence South 0 degrees 20 minutes 08 seconds East parallel with the West line of said Lot #23, a distance of 72.16 feet to the point of beginning. Parcel contains 0.33 acres, more or less.

PARCEL "F"

Part of the South 5 acres of Lot #23 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit: COMMENCING at the Northwest corner of said Lot #23; thence Southerly along the West line of said Lot #23, a distance of 214.4 feet; thence Easterly, parallel with the North line of said Lot #23 a distance of 295.0 feet to the point of beginning. BEGINNING at the above described point; thence continuing Easterly, parallel with the North line of said Lot #23, North 89 degrees 21 minutes 28 seconds East a distance of 684.91 feet to the East line of said Lot #23; thence South 0 degrees 42 minutes East along the East line of said Lot #23, a distance of 101.80 feet; thence South 89 degrees 30 minutes 18 seconds West and parallel to the North line of Fleck's Subdivision as recorded in Plat Book 15, page 58, a distance of 685.55 feet to a point located 295.0 feet East of the West line of Lot #23; thence North 0 degrees 20 minutes 08 seconds West and parallel to said West line a distance of 100.13 feet to the point of beginning. Parcel contains 1.59 acres of land, more or less.

and the symbols of the City of Fort Wayne Zoning Map No. F-2, as established by Section 11 of Chapter 33 of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. TIMOTHY MCCAULAY, CITY ATTORNEY

FOUR STAR BOND

SOUTHWORTH CO. U.S.A.

Division of Community Development & Planning

BRIEF TITLE

Zoning Map Amendment

APPROVAL DEADLINE

REASON

From RA & RB to B2D

DETAILS

Specific Location and/or Address

Portions of an area generally described as being located east of Reckeweg Road, south of Illinois Rd and north of Jefferson Blvd.

Reason for Project

Development of a strip commercial center.

Discussion (Including relationship to other Council actions)

18 March 1991 - Public Hearing

See Attached Minutes of Meeting.

6 May 1991 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with
NO RECOMMENDATION.

Of the seven (7) members present, five (5) voted in favor of the motion, two (2) voted against the motion.

Motion carried.

POSITIONS

RECOMMENDATIONS

Sponsor

City Plan Commission

Area Affected

City Wide

Other Areas

**Applicants/
Proponents****Applicant(s)**

Indiana Venture, Summit Bank
Trustee
~~City Department~~
Elizabeth J Tonn
Steve J & Dora M Dager
Other

Opponents**Groups or Individuals**

See Attached Minutes

Basis of Opposition

-increased traffic congestion
-increased water runoff
-negative effect on
residential property values

**Staff
Recommendation**

☒ For ☐ Against

Reason Against

**Board or
Commission
Recommendation****By**

NO RECOMMENDATION

☐ For ☐ Against
☐ No Action Taken

☐ For with revisions to conditions
(See Details column for conditions)

**CITY COUNCIL
ACTIONS
(For Council
use only)**

☐ Pass ☐ Other

☐ Pass (as amended) ☐ Hold

☐ Council Sub. ☐ Do not pass

DETAILS

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start

Date 14 February 1991

Projected Completion or Occupancy

Date 8 May 1991

Fact Sheet Prepared by

Date 8 May 1991

Patricia Biancaniello

Reviewed by

Date 5/9/91

Reference or Case Number

A May 1991

Bill No. Z-91-03-13 - Change of Zone #463

From RA & RB to B-2-D

Portions of Lots 10, 11, 19, 22 & 23 in Edsall's Subdivision of Lagro Reserve. Generally located east of Reckeweg Road, south of Illinois Road and north of Ridgelane Drive.

Primary Development Plan for Apple Glen Phase I (Galleria)

Doug Miller, attorney representing the petitioners and the developers, appeared before the Commission. He stated that they are talking about a parcel of land which is located generally east of Reckeweg Road, south of Illinois Road and north of W Jefferson Blvd. He stated that it contains approximately 22 acres in size. He stated that the reason for the request was to include within a regional area, a discount or a strip mall, in that regional shopping center. He stated the neighborhood associations in the area are the Reckeweg Road Area Association, Westmoor Park Neighborhood Association and the Wildwood Park Community Association. Mr. Miller gave the Commission a brief history of the Apple Glen Shopping Center. He stated that the property is located in the West Sector of the Outer Ring of the Comprehensive Plan. The goal of that West Sector is to contain the growth to the urban service area. He stated that Apple Glen falls within the boundary of the urban service area. He stated that shopping centers are not approved under the plan and are not recommended for the West Sector, but the present proposal represents an expansion of a previously approved shopping center that was already contemplated under the Comprehensive Plan. He stated that the primary plan for Apple Glen does not contemplate an access on Reckeweg Road and it does not plan at this point to abut Reckeweg Road. He stated that the uses to the south on W Jefferson have changed in character from single family residential to multi-family and professional office development. He stated that there is continuing change in the character of uses to the north along Illinois Road. He stated that the only use which has maintained its character throughout time is the residential use along Reckeweg Road and Ridgelane and Park West Shopping Center. He stated that he felt the highest and best use of the property is to incorporate it in as a part of Apple Glen Shopping Center. He stated that he felt it was fair to say that there would be no impact on the property values to the north, east or south of the project. He stated that the developer is willing to make commitments with respect to Reckeweg Road and the Ridgelane Road areas to help maintain the residential characters of the areas. He stated that the residential property values have not suffered as a result of Apple Glen's existing rezoning of over 105 acres. He stated that the 22 acres would not dramatically shift the situation. He stated that staff has made recommendations to reduce the size of the current request by deleting the ground within 300 feet of the Reckeweg Road centerline and deleting the south approximate 115 feet of Lot #23 (Parcel F) to provide a south boundary line that is an extension of the existing zoned parcel. He stated that the developer is

willing to perfect his current request to reflect these changes. He stated that the developer is serious in developing an upper scale development. He stated that the developer wants to integrate mixed uses and discount retail which would enhance the marketing viability of the project. He stated that he would move into the record the introduction of a traffic study, an economic impact analysis that were presented along with the original submission. He stated that the felt the developer was willing to do all that he could to meet the needs of the surrounding community and to give a quality development to the area.

Ted de Swart, representing the developer Bobeck Real Estate, appeared before the Commission. He stated that the plan submitted with the rezoning includes only the west side of the property because that is the side that has been most easily planned at this stage. He stated however; it is important in understanding the project, that everyone realize that the portion of the project to the east of this road and to the east of the proposed strip center, is the portion which will contain the regional mall at sometime in the future. He stated that this project as an overall project is quite a typical retail development in a large and growing city. He stated that it comprises as its main components a regional enclosed mall with some 3 to 5 department stores and 250,000 to 350,000 square feet of specialty stores. On its periphery it will feature a discount and convenience oriented strip center together with various out parcels and some other minor uses. He stated that the dynamics of a regional mall are such, in terms of dimension, that any drastic encroachment on any of the axis makes it a very awkward development. The reason we are here tonight is because the developer is very anxious to keep the proportions of the mall such that a quality development can be pursued there. In order to accomplish this and at the same time take advantage of the commercial opportunities that are present at the moment, it is necessary to add a small portion of property on the west side to accommodate the convenience and discount strip center. He stated that very often in communities of this sort, when this sort of development is done, the "coin" is flipped over and the peripheral development follows the regional mall. The economy at the moment is such that retailers are having "hard luck" and it mainly applies to retailers who are very service oriented or middle of the road mass merchandisers. He stated that in economic times such as this, it is the discount stores and the convenience stores that tend to prosper and be aggressive. He stated that is why they are starting with the peripheral development rather than the nucleus of the development which would be the regional mall. Furthermore, he stated that everyone has heard of the takeovers, aided by junk bond issues and the leverage buyouts that have plagued the department store industry for the last five years. And that has left the traditional department stores in somewhat of a state of shock, and it is going to be awhile before they come out and start aggressively expanding again to communities such as these. However, he stated that they have every reason to believe that by the time this

development is concluded, they will be ready to roll into the development of a regional mall. He stated that in order to accommodate the mall and strip center, and to accommodate the flow of traffic around the project, they have dissected the project with a road which effectively goes from Thomas Road through the project to W Jefferson Bl. He stated that their original development plan submission has been altered after discussions with various private individuals as well as the planning staff. He stated they have, as a result of those conversations, voluntarily increased their buffer zones, moved forward buildings by substantial distances and also agreed to withdraw from the petition the piece of property that fronted Reckeweg Road. He stated that their proposed revised plan is a plan that he felt, with some small exceptions, that both the city and developers can live with.

Kerry Dickmeyer, Coil & Dickmeyer Engineering, appeared before the Commission and presented the storm drainage plan to the Commission. He stated the site presently has an open drain system that bisects the middle of the site and outlets under a box culvert onto W Jefferson Bl. He stated that they intend to slide the street and drainage basin and drainage route in the same direction. He stated that they are proposing to do a storm sewer and open drainage system along with the detention pond down the east side of the access road. He stated that in discussing this with staff they have made some agreements on the amount of drainage that they have to handle for the area. He stated that they have done some preliminary calculations on how much volume will be due to the development and how much the city would like to have them discharge into the culvert. He stated that the preliminary numbers call for a 24 acre feet of storage, for a fully developed center, with controlled discharge. He stated that they intend to drop the site for the strip mall area from anywhere from 3 to 5 feet in elevation depressing the site, providing positive drainage downfalls. He stated that by depressing these areas they will be able to provide positive drainage, a better drainage system to what they have in the area now. He stated that they are trying to control all of the onsite drainage that they have for the site.

Kevin McCrory, landscape designer & architect, appeared before the Commission. Mr. McCrory stated that they have two primary aspects of the primary landscaping plan for this development. One is the landscaping that will occur in the main improvements areas, which would be the proposed connector road and also the landscaping that would occur on the "public" side of the stores (parking lot areas, islands, etc). Second, and the more critical part of his task is to look at the buffering and screening that will need to occur between the residential land uses to the south and to the west. He stated the original plan was to try and save as many trees as possible. He stated that they feel that they have accomplished the task of maintaining as much of the original characteristic of this area (vegetation, trees) that the area residents enjoy today. He stated that with the shifting of 115

feet of the Wal Mart facility they are able to save more of the existing vegetation and trees. He stated that you would have a minimum along the south border and along the west border of 75 feet of existing vegetation. He stated that also incorporated into that, where the opportunity presents itself, they will have berming and also new vegetation. He stated that they will work very closely with the city and their landscape architect to define carefully where the exact areas, along with more detailed plans, as to where the berming and trees need to be placed. He stated that in some cases they may also be required to have a solid wood fence.

John Shoaff questioned how many of the trees would be removed.

Mr. McCrory pointed out on the plan the area of vegetation that would be removed.

John Shoaff questioned how high the mechanical housing on top of the building would be and the height of the parking lot lights.

Jerry Noble, architect with MSKTD, appeared before the Commission. Mr. Noble stated that the rooftop units to handle the tenant spaces are generally in the neighborhood of 3 1/2 to 5 feet tall. He stated that the height of the parking lights will be 30 feet.

Mr. de Swart stated that it is important to note that the high parking lot lights will be to the east of the development and that there will be no standard lights behind the development or to the west. They will be all wall mounted surface lights so there should be very little spill-off from them.

Tom Manny, from Traffic One, appeared before the Commission. Mr. Manny stated that in 1989 Barton-Aschman did a revised traffic analysis for the Apple Glen complex. He stated that they had met with the city departments in October of 1989 and again in January 1990. As a result of those meetings they, received a request in March of 1990, that they move the access point. He stated that the city requested that they line the access point up with Thomas Road. He stated they found out through research that there is a street easement at the location directly across from Thomas Road. He stated that because they have proposed a street that connects from Thomas Road to W Jefferson Blvd., through the complex, they are aware that they will be carrying traffic other than what the center would be generating. He stated that they intend to develop this road as a major collector. He stated it will help serve and collect some of the impact of the traffic that is trying to get down through the Freeman Street, Lindenwood area. He stated that it could act as a collector until such time that the Ardmore Corridor would become completed.

Mel Smith questioned if the road would be built to city specs.

Mr. Manny stated that it would be built to city specifications as if it were a city dedicated street.

David Long questioned if an acoustical analysis would include stories in the strip area other than Wal Mart.

Mr. de Swart stated that although they do not know who the other tenants will be at the moment, the shopping center is a very ordinary generic trend. He stated that they know that there will be a supermarket, a drug store etc. He stated that they will try to identify from other shopping centers that have those stores, the kind of operations that they employ and any noise problems that emanate from them. He stated he did not feel it would be a difficult study to do.

Yvonne Stam questioned if all of the site, the original rezoning of Apple Glen (105 Acres) and the new area of 23 Acres, will drain through the area, the box culvert.

Kerry Dickmeyer stated that there is approximately 140 acres in the shed area and it is draining now into this area and through the box culvert at this time. He stated that there is about a 16 to 18 foot fall from Thomas Road down to this box culvert area and this is the normal course. He stated that there is no legal drain and there is no drain running through there.

John Ferrick, real estate manager for Wal Mart, appeared before the Commission. Mr. Ferrick stated that to handle the trash and noise level in this type of facility the company has discovered through trial and error methods of disposal. He stated that they have units that are attached to the building itself and they are loaded internally from the stock area of the store. He stated these type of units run very quietly with nothing more than a humming sound that cannot be heard beyond approximately 100 feet. He stated that they are willing to use what form of trash removal the Commission would deem necessary. He stated that they will take the loading dock and face it away from the residential area. He stated that it still has to be on the back of the building. He stated that they have attempted to reduce noise levels by putting up 6 to 8 foot stockade walls if necessary. He stated that they have found trees and vegetation acts as a more natural sound barrier.

Mr. de Swart stated in conclusion that it is their intention, where possible to completely obscure the line of sight from the residences to the buildings. He stated that the road that will bisect the property will be a full five lane boulevard. He stated that it is Traffic Engineering's opinion that this road will take cut-through traffic off of Reckeweg Road.

Jim Bostwick, owner of Bostwick Sea Ray, appeared before the Commission. Mr. Bostwick stated that they are located across the street from the proposed shopping center. Mr. Bostwick stated that he was impressed with the quality approach that the petitioner has taken and that they endorse the project.

Rick Tomkinson, owner of Tomkinson Dodge, appeared before the Commission. Mr. Tomkinson stated that his business is right down the street from the proposed project. He stated that he moved to the area around 90 days ago because he felt that the area is a great growth area for Fort Wayne. He stated that he felt the area is best suited for projects such this. He stated that this will be an excellent addition to the area.

A W Freuchtenicht, attorney, representing Mr. & Mrs. Roy Hahns, appeared before the Commission. Mr. Freuchtenicht stated that his clients own a 3.7 acre tract that is a part of this development. He stated that his clients are in favor of the proposed rezoning and development.

OPPOSITION:

Ben Eisbart, 3601 North Washington Road, representing the Wildwood Park Association

Don Clendenen, 1910 Reckeweg Road, submitted a petition to the Commission stating reasons why they were in opposition to the proposed rezoning because of the effect of: store lighting infiltration into the residential areas, noise pollution, reduced privacy and loss of aesthetic value to their area. They also had a list of requirements should the property be rezoned that they wanted the Commission to consider:

- No commercial zoning to abut Reckeweg Road.
- Move Wal Mart Northeast to allow for maximum buffering.
- Do Not rezone land within 400 feet of centerline of Ridgelane Drive, and also Reckeweg Road.
- Buffers and concealment to completely shield stores from Residential sight and sound:

- 1) Buffer mounded to minimum of 6 feet from resident's grade level.
- 2) Planted with mature evergreens spaced close enough to provide visual barrier.
- 3) Leave a minimum of 100 feet of natural woods where present, in addition to mounded buffer.
- 4) Leave as much undisturbed woods as possible.
- 5) Buffers to be built and landscaped at time of sight development.
- 6) Provide proper irrigation and drainage caused by buffer swells.
- 7) Buffer to be maintained.

Futhermore the petition stated that they would like:

- Protection from trespassers cutting through residential property to get to stores.
- All stores to have sound buffering, self contained trash, no evening pick ups or deliveries, no outside PA or music.
- No construction traffic on Reckeweg Road.

The petition was signed by approximately 100 area residents.

Henry Helberg, 4130 North Washington Road

Edith Kenna, 3425 North Washington Road

David Kreischer, 1819 No Glendale Dr, President of the Westmoor Association, stated that he was not notified by the developers of their open houses.

Peter Fettig, 1502 Hawthorne Road

Pam Wygant, 2112 Reckeweg Road

Ray Anderson, 1639 Reckeweg Road

Jim Hilgeman, 1741 Reckeweg Road , stated that they do not want any ingress/egress from Reckeweg Road or Ridgelane Road from this property.

The following are reasons were also stated in opposition:

- the Board of Wildwood Park Neighborhood Association wanted to go on record as questioning the impact of such a project on the Southwest portion of Fort Wayne and specifically the Jefferson, Illinois, Getz Road area
- if roadways are to be improved, where is the money to improve them going to come from - the burden of roadway improvements should not be placed upon the taxpayers
- without the project there are already significant traffic problems in this area - what would an addition of this magnitude do in terms of exacerbating those problems
- if roadways are to be improved, where is the money to improve them going to come from - the burden of roadway improvements should not be placed upon the taxpayers - the burden of roadway improvements should be borne by the developer
- how will the impact of the ebb and flow of traffic from this project be reduced until the extension and upgrading of Old Illinois Road with west bound traffic and the extension of Ardmore Avenue
- the extension of Thomas Road through the project and the other traffic alleviators that are proposed are not adequate to correct the traffic problems in the area that would be created by this project
- what type of negative effect could this development have on residential property values in the area
- question of whether this project was really needed - there are

already numerous strip centers that have a high rate of vacancy- such as Canopy Corners, Park West Shopping Center, Time Corners, etc.

- there is a serious water drainage problem in the area - the detention pond proposed does not seem adequate to handle the flow of runoff from the proposed paving and construction that would develop due to this project

- this proposed development appears to be an "addition to a house" that does not exist

- this area would be less detrimental to the area if it were to be developed for office uses rather than retail uses

- if tract is rezoned, what guarantee do they have that Wal Mart will develop the property and not some less desirable commercial developer

In rebuttal Tom Manny with Traffic One stated that the 1987 study done by the Chicago Engineering firm that was commissioned by the Board of Works at the insistence of City Council and Plan Commission, included the exits points from Apple Glen as part of that study. In fact the designation and location of those access points were done at the recommendation of the Board of Works consultant.

Doug Miller stated that they are submitting a plan for Apple Glen. He stated that they basically have all of the exterior portions and the roadway through it. He stated that this is the first phase - the strip center.

Dr. Thomas Guthrie, Associate Professor of Economics at IPFW and also Chairman of the Economic and Finance Department of the School of Business and Management Sciences and Director of the Community Research Institute, appeared before the Commission. Dr. Guthrie stated that he was not representing IPFW by his appearance before the Commission. He stated that questions have been raised relative to the economic viability of the proposed Apple Glen Mall project. He stated that in case the issue arose, Mr. Bobeck had requested that he review previously commissioned consulting studies addressing the issue and to prepare to comment briefly on them. Dr. Guthrie stated that he did not claim professional expertise with respect to evaluating the economic viability of shopping malls. However, he stated he did claim confidence in being able to determine whether an economic study is sound and consistent in its methodology. Furthermore, if that study is applicable to the Fort Wayne area economy. He stated that he felt even more secure because he claims expert knowledge relative to the area economy. He stated G. A. Partners a unit of Arthur Anderson and Company is the study to which he is referring. He stated that he has a list of retail companies who retain Arthur Anderson as their auditor. He stated that it includes over 60 names and is a "who's who" of the retail industry. He stated that he was sure that G A Partners would not

Mark Gensic questioned how wide the street would be.

Mr. Manny stated that at this time it is anticipated to be two lanes in each direction with a 30 foot median.

Mr. Manny stated that the Traffic Engineer has put some requirements on the project for traffic signals. He stated that currently there is in this area a traffic technology computer that has the capability of handling 15 intersections. He stated that the city has required that they extend the conduit and the communications lines to expand that system to any signals that would be required. He stated they will require a signal at Thomas & Illinois Road when the project is opened.

Doug Miller presented the Commission with two sets of pictures that depicted the commercial properties to the north and southeast of the area in question. He stated that they basically depict what requirements, and what has been done in regard to buffering and the shielding of those commercial properties from their property or from the residential properties on Reckeweg and Ridgelane. Mr. Miller further stated that they have held open houses and sent written invitations to the residential areas and associations inviting people to attend. He stated that they had over 11 hours of open houses.

Wil Smith questioned if their clients have considered any other areas, since the area in question is surrounded by high density residential development.

Mr. Miller stated that they presently have 105 acres already zoned for commercial. He stated that they feel that this property will also go commercial and they feel that it is better to develop it in a well defined plan than haphazardly. He stated that they feel this type of well defined development would be in the best interest of the neighborhood.

Mel Smith questioned that if the Commission gives the petitioner the right to build the first phase, what if the economy does not go up, what happens to the rest of the development.

Mr. Miller stated that they feel by this rezoning they are defining the west boundaries of the entire commercial development.

Mr. de Swart stated that the immediate development would be the Wal Mart Store, that contract is in hand. He stated that they do not intend to develop any speculative space. He stated that they have had sufficient interest from other retailers both large national, and small local, sufficient to a point where that entire strip center could be a reality, should the zoning change be approved.

Mark Gensic questioned if someone could show the extent of the

earthwork that would take place during the first phase of the construction. He stated that he was concerned about a multi-phased project opening up, cutting and disturbing the soil and how long it would sit until the next phase would begin.

Kerry Dickmeyer stated that how much soil they cut will depend upon what structures are started and the size of the facility being built. He stated that one of the concerns people have is that of controlling the drainage water that develops due to the earth work. He stated that the drainage water would be controlled all in the one basin area and that is where the sediments should take place. He stated they will have to provide adequate measures of erosion and seeding of those areas. He stated that the immediate construction will be the Wal Mart area. He stated that they are not going to tear down or strip any soil unless it is being developed.

Steve Smith questioned where the detention pond released to and what kind of impact it would have.

Kerry Dickmeyer stated that the box culvert that runs under W Jefferson now handles the basic runoff that they have. He stated that their plans are to limit that amount of runoff that there is today, so their impact will be that they are controlling the drainage upstream on their site and releasing it downstream.

Yvonne Stam questioned how long they would be able to hold the water onsite.

Mr. Dickmeyer stated that the concept is to retain the water onsite for a 24 hour period.

David Long questioned if that meant that the impact on the Junk Ditch would be minimized.

Mr. Dickmeyer stated that if you are discharging less from a developed condition than you presently are, you would be minimizing the amount of flooding that you would have.

David Long questioned if the issue of noise created in the area had been addressed by the developer. He questioned what type of noise would be created by truck traffic, the hours of operation. He questioned if there was going to be an acoustical analysis done and when.

Mr. de Swart stated that the request for an acoustical analysis was brought to their attention in the staff report. He stated they have not done one yet. He stated however that is something that they can look at and identify the areas that are likely to generate sounds that could irritate the adjacent neighbors. Mr. de Swart stated that a representative from Wal Mart was there and would address the methods of eliminating trash and loading/stocking stores. He stated that he felt they would find the methods inoffensive to residential areas. He stated that there would be acoustical studies where necessary.

landscaping and more requirements into a development than the developer will. He stated that Wal Mart feels that their store will be the focal point by which this development will get off the ground.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning and development plan.

risk its credibility on one development. He stated that the G A study is worthy of consideration. He stated that the bottom line of the study is that the Apple Glen Mall, if developed as designed, is projected to be eminently viable economically. He quoted from the study, "Apple Glen would be the only mixed use project in the region and will provide area households with a temporary and attractive and exciting shopping experience. Apple Glen will create new shopping opportunities by bringing new department and specialty stores to the Fort Wayne area, and accordingly should command a higher share of the market than the two existing malls." Dr. Guthrie stated that because the study contains substantial proprietary data of a competitive nature, Mr. Bobeck has asked that it not become part of the public record. However, now that the issue of economic viability has been raised, Mr. Bobeck is willing to make arrangements for Commission Members desiring to review the study. Dr. Guthrie stated that he found it curious that economic viability should even be raised relative to this rezoning request. He stated as a teacher of economic principles he instructs students relative to the U S Economy, which we all know, is primarily a market system. He stated that in a market system entrepreneurs not planning commission's make judgments as to whether projects are economically viable. He stated that speaking as a citizen of the Fort Wayne community, not as a consultant, he hoped that a judgement that is relative to economic viability, has no role to play in the rezoning request.

Kerry Dickmeyer, with Coil & Dickmeyer engineering again reiterated the plans and means the project will incorporate relative to the drainage problems in the area and their means of controlling the water runoff and retention from the project. Kevin McCrory, reiterated the plans that are being prepared for visual and aesthetic landscape barriers between the project and the residents.

Tim Borne stated that there were two public open houses on this project held by the developers. He stated one from 7 pm to 9 pm held at St. Michaels Lutheran Church. He stated that invitations were sent to all the residents of Wildwood Park and to the residents who live on Reckeweg Road as taken from the Polk Directory. He stated that he felt it was fair to say that everyone impacted was invited. He stated that the second open house was held from 12 noon to 8 pm, which gave people who worked on first, second or third shifts an opportunity to attend. He stated that one of the reasons a second open house was held over an eight hour period was to give the residents an opportunity to show up and spend as much quality time as they could with their professionals.

Mr. Ferrick with Wal Mart also made a closing statement stating that they have every intention of developing a quality store to serve the southwest section of the city. He stated that they intend to buy the property that the store is built on they are not leasing. He stated that 99% of the time they put in more



MEMORANDUM

TO: Members of the City Council

FROM: Greg Purcell, Director, Community & Economic Development

DATE: May 21, 1991

SUBJECT: Apple Glen Rezoning - Bill No. Z-91-03-13

The rezoning ordinance unanimously adopted by City Council on May 14, 1991 contained the wrong legal description for the proposed rezoning. The Planning Department incorrectly interpreted the motion of the Plan Commission to be for the original 22.65 acre rezoning submitted by the developer.

As you will recall in my remarks to the Council during the discussion of this matter, I specifically stated the rezoning was for the "perfected 16.97 acres" and not the original 22.65 acres. Mr. Ted DeSwart, representing the developer, also pointed out the reduced territory for rezoning during his presentation before Council, and presented a graphic depicting the reduction in territory.

To ensure that we were correctly interpreting the motion by the Plan Commission, we asked the Commission members present at the May 6, 1991 meeting to sign the attached clarification of the motion. Please note that all members of the Plan Commission present at the May 6 meeting, including those opposed to the motion, have signed the clarification that the motion was for the perfected 16.97 acres.

Finally, I believe it was the understanding of all City Council members that the rezoning was for the 16.97 acres. Given all of the above, we would like Council to correct the rezoning ordinance by either attributing the wrong legal description to scrivener's error or another procedure as may be deemed appropriate by legal counsel.

gb

Attachment


MOTION ON BILL NO. Z-91-03-13

This is to clarify the motion adopted by the Plan Commission on May 6, 1991 on the above mentioned bill. The motion of NO RECOMMENDATION was specifically for the rezoning petition as "perfected" to be the 16.97 acres as contained in the attached legal description.


For the Plan Commission:


Melvin O. Smith


Robert Hutner


John Shoaff


Stephen R. Smith


Yvonne Stam


David Long


Charles E. Layton

APPLE GLEN REZONING

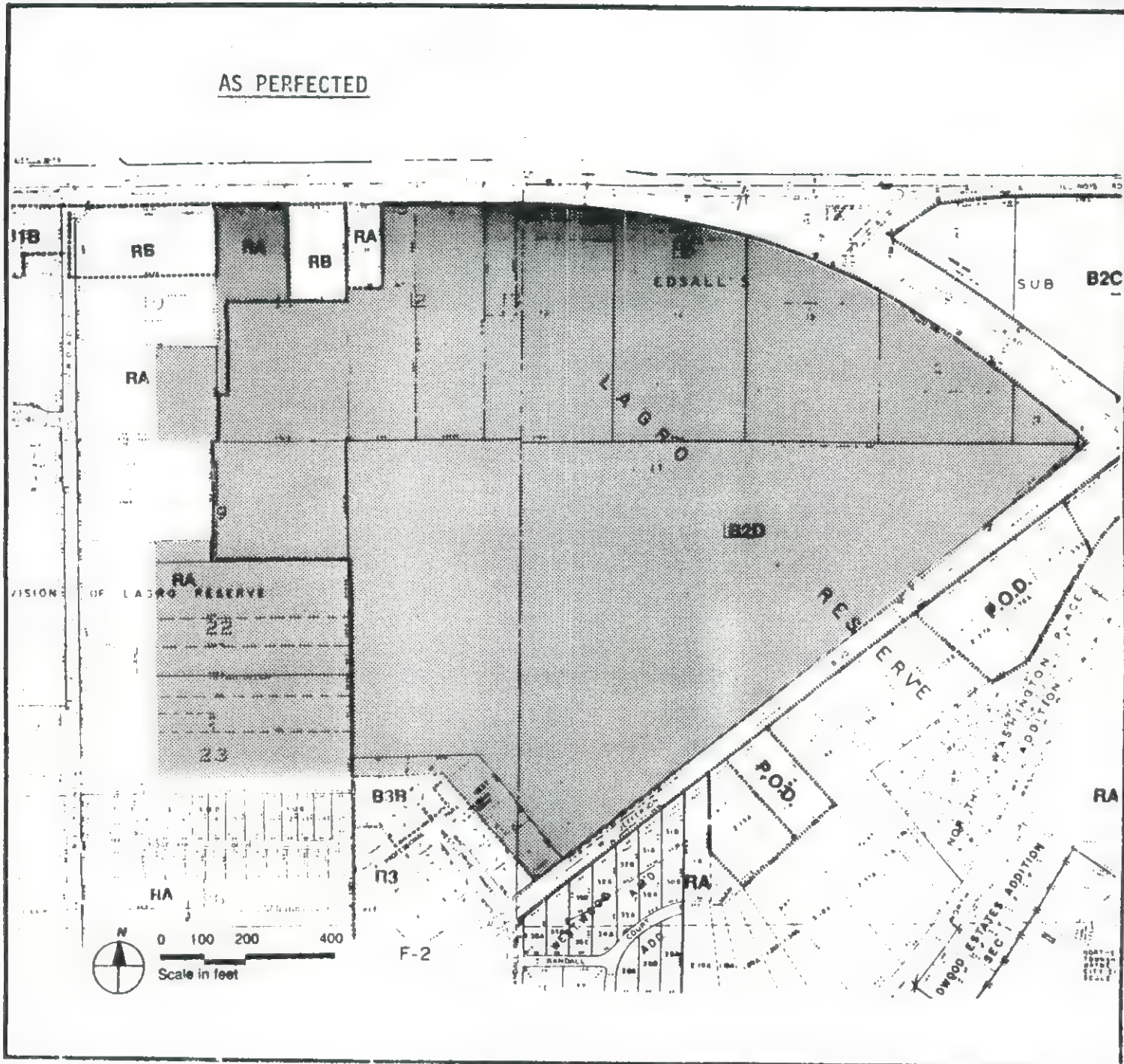
PARCEL A	3.10
PARCEL B	1.69
PARCEL C	0.40
PARCEL D	9.86
PARCEL E	0.33
PARCEL F	<u>1.59</u>

REZONING
CONSISTS OF: 16.97 ACRES OF LAND

REZONING PETITION

AREA MAP

CASE NO. #463



COUNCILMANIC DISTRICT NO. 4

Map No.: F/G-2
LW 2-22-91

R1 One-Family	B1 Limited Business	M1 Light Industrial
R2 Two-Family	B2 Planned Shopping Center	M2 General Industrial
R3 Multi-Family	B3 General Business	M3 Heavy Industrial
RA/RB Residential	B4 Roadside Business	IA Interchange Access
PUD Planned Unit Dev.	POD Professional Office District	MHP Mobile Home Park

PARCEL A

Part of Lot # 11 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, and more particularly described as follows, to wit: COMMENCING at the Northwest corner of Lot # 11 in Edsall's Subdivision of LaGro Reserve; thence South 0 degrees 19 minutes 45 seconds East along the West line of said lot a distance of 75.0 feet to a point on the South right-of-way line of Illinois Road, said point being the point of beginning. BEGINNING at the above described point; thence continuing South 0 degrees 19 minutes 45 seconds East along said West line a distance of 639.87 feet; thence North 89 degrees 13 minutes 37 seconds East and parallel to the North line of said lot a distance of 150.0 feet; thence North 0 degrees 19 minutes 45 seconds West and parallel to said West line a distance of 300.0 feet; thence North 89 degrees 13 minutes 37 seconds East and parallel to said North line a distance of 115.95 feet; thence North 0 degrees 33 minutes 03 seconds West a distance of 339.87 feet to a point on the South right-of-way line of Illinois Road; thence South 89 degrees 13 minutes 37 seconds West along said right-of-way a distance of 264.64 feet to the point of beginning. Parcel contains 3.10 acres of land, more or less.

PARCEL B

Part of Lot # 10 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, and more particularly described as follows, to wit: COMMENCING at the Northeast corner of Lot # 10 in Edsall's Subdivision of LaGro Reserve; thence South 0 degrees 19 minutes 45 seconds East along the East line of said Lot # 10 a distance of 573.00 feet to the point of beginning. BEGINNING at the above described point; thence continuing South 0 degrees 19 minutes 45 seconds East a distance of 340.0 feet to the Southeast corner of said lot; thence South 89 degrees 05 minutes 18 seconds West along the South line of said lot a distance of 216.51 feet to a point located 295.0 feet East of the West line of said lot; thence North 0 degrees 20 minutes 08 seconds West parallel with said West line a distance of 340.0 feet; thence North 89 degrees 05 minutes 18 seconds East and parallel with said South line a distance of 216.55 feet to the point of beginning. Parcel contains 1.69 acres of land, more or less.

PARCEL C

Part of Lot # 19 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, and more particularly described as follows, to wit: COMMENCING at the Southwest corner of said Lot # 19; thence North 89 degrees 30 minutes East along the South line of said Lot # 19 a distance of 295.0 feet to the point of beginning. BEGINNING at the above described point; thence North 0 degrees 20 minutes 08 seconds West and parallel with the West line of said lot a distance of 89.26 feet; thence North 89 degrees 30 minutes East and parallel to said South line a distance of 194.54 feet; thence South 0 degrees 34 minutes 41 seconds West a distance of 89.27 feet to a point on the South line of said lot; thence South 89 degrees 30 minutes West along said South line a distance of 193.11 feet to the point of beginning. Parcel contains 0.40 acre of land, more or less.

PARCEL D

Part of Lot # 22 and Lot # 23 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, and more particularly described as follows, to wit: COMMENCING at the Northwest corner of Lot # 22 in Edsall's Subdivision of LaGro Reserve; thence North 89 degrees 30 minutes East along the North line of said Lot # 22 a distance of 295.0 feet to the point of beginning. BEGINNING at the above described point; thence continuing North 89 degrees 30 minutes East along the North line of said Lot a distance of 680.76 feet to the Northeast corner of said lot; thence South 0 degrees 42 minutes 01 seconds East along the East line of said Lot # 22 and Lot # 23 a distance of 649.03 feet; thence South 89 degrees 21 minutes 28 seconds West a distance of 484.91 feet; thence North 0 degrees 20 minutes 08 seconds West and parallel to the West of Lot # 23 a distance of 72.16 feet; thence South 89 degrees 21 minutes 28 seconds West a distance of 200.0 feet to a point 295.0 feet East of the West line of Lot # 23; thence North 0 degrees 20 minutes 08 seconds West and parallel with the West line of Lots # 22 and 23 a distance of 578.57 feet to the point of beginning. Parcel contains 9.86 acres of land, more or less.

PARCEL E

Part of Lot # 23 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit: COMMENCING at the Northwest corner of said Lot # 23; thence Southerly, along the West line of said Lot # 23, a distance of 214.4 feet; thence North 89 degrees 21 minutes 28 seconds East and parallel with the North line of said Lot # 23, a distance of 295.0 feet to the point of beginning. BEGINNING at the above described point; thence continuing North 89 degrees 21 minutes 28 seconds East parallel with the North line of said Lot # 23, a distance of 200.0 feet; thence North 0 degrees 20 minutes 08 seconds West parallel with the West line of said Lot # 23, a distance of 72.16 feet; thence South 89 degrees 21 minutes 28 seconds West parallel with the North line of said Lot # 23, a distance of 200.0 feet; thence South 0 degrees 20 minutes 08 seconds East parallel with the West line of said Lot # 23, a distance of 72.16 feet to the point of beginning. Parcel contains 0.33 acres, more or less.

PARCEL F

Part of the South 5 acres of Lot # 23 in Edsall's Subdivision of LaGro Reserve, Section 8, Township 30 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit: COMMENCING at the Northwest corner of said Lot # 23; thence Southerly along the West line of said Lot # 23, a distance of 214.4 feet; thence Easterly, parallel with the North line of said Lot # 23, a distance of 295.0 feet to the point of beginning. BEGINNING at the above described point; thence continuing Easterly, parallel with the North line of said Lot # 23, North 89 degrees 21 minutes 28 seconds East a distance of 684.91 feet to the East line of said Lot # 23; thence South 0 degrees 42 minutes East along the East line of said Lot # 23, a distance of 101.80 feet; thence South 89 degrees 30 minutes 18 seconds West and parallel to the North line of Fleck's Subdivision as recorded in Plat Book 15, page 58, a distance of 685.55 feet to a point located 295.0 feet East of the West line of Lot # 23; thence North 0 degrees 20 minutes 08 seconds West and parallel to said West line a distance of 100.13 feet to the point of beginning. Parcel contains 1.59 acres of land, more or less.

ZONING MAP ORDINANCE NO. Z- ~~8-2-2~~

AN ORDINANCE amending the City of
Fort Wayne Zoning Map No. F-2.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is
hereby designated a B-2-D (Regional Shopping Center)
District under the terms of Chapter 33 of the Code of the
City of Fort Wayne, Indiana of 1974:

PARCEL "A"

Part of Lot #11 in Samuel Edsall's Subdivision of LaGro Reserve, Section 8, Allen County, Indiana more particularly described as follows: BEGINNING at the Northwest corner of Lot #11 in Samuel Edsall's Subdivision in the LaGro Reserve, Section 8, Allen County, Indiana; thence South along the West line of Lot #11 a distance of 714.86 feet; thence East parallel to the North line of Lot #11 a distance of 150 feet; thence parallel to the West line of Lot #11 a distance of 300 feet; thence East parallel to the North line of Lot #11 a distance of 118.5 feet; thence North and parallel to the West line of Lot #11 a distance of 414.86 feet to a point on the North line of Lot #11, said line also being the centerline of State Road #14 and Illinois Road; thence West along the North line of Lot #11, said line also being centerline of State Road #14 and Illinois Road, a distance of 268.5 feet to the point of beginning, containing 3.59 acres, subject to road rights of way and easements.

PARCEL "B"

The South 340 feet of Lot #10 in EDSALL'S SUBDIVISION of LaGro Reserve, according to the plat thereof, recorded in Deed Record 30, page 160, in the Office of the Recorder of Allen County, Indiana.

PARCEL "C"

Part of Lot #19 in EDSALL'S SUBDIVISION of LaGro Reserve, recorded in Deed Record 30, page 160, in the Office of the Recorder of Allen County, Indiana, and more particularly described as follows: COMMENCING at the Southwest corner of said Lot #19; thence Easterly along the South line of said Lot #19 a distance of 227 feet to the point of beginning. BEGINNING at the above described point; thence Northerly, parallel with the West line of said Lot #19, a distance of 89.26 feet; thence Easterly, parallel with the South line of said Lot #19 a distance of 269.26 feet, more or less; thence Southerly a distance of 89.26 feet to a point on the South line of said Lot #19; thence Westerly along the

#463
1 South line of said Lot #19, a distance of 269.56 feet,
2 more or less, to the point of beginning. Parcel
3 contains 0.54 acres, more or less, and is subject to
4 any pertinent easements of record.

5 PARCEL "D"

6 Part of Lot #22 in Edsall's Subdivision of LaGro
7 Reserve, according to the plat thereof, recorded in
8 Deed Record 30, page 160, in the Office of the Recorder
9 of Allen County, Indiana, more particularly described
10 as follows: BEGINNING at a point on the North line of
11 said lot situated 227.0 feet East of the Northwest
12 corner of said Lot #22; thence North 89 degrees 29
13 minutes East along said North line a distance of 754.6
14 feet, more or less, to the Northeast corner of said
15 lot; thence South 0 degrees 02 minutes 48 seconds West
16 along the East line of said lot and Lot #23 a distance
17 of 652.4 feet, more or less; thence South 89 degrees 29
18 minutes West parallel to the North line of said Lot #22
19 a distance of 485.0 feet; thence North 0 degrees 07
20 minutes West a distance of 72.16 feet; thence South 89
21 degrees 29 minutes West a distance of 268.0 feet to a
22 point located 227.0 feet East of the West line of said
23 Lot #23; thence North and parallel to said West line a
24 distance of 577.9 feet to the point of beginning,
25 containing 10.81 acres, more or less, and subject to
26 any pertinent easements of record.

27 PARCEL "E"

28 Part of Lot #23 in EDSALL'S SUBDIVISION of LaGro
29 Reserve, in Section 8, Township 30 North, Range 12
30 East, Allen County, Indiana, more particularly
31 described as follows: COMMENCING at the Northwest
32 corner of said Lot #23; thence Southerly along the West
line of said Lot #23, a distance of 214.4 feet; thence
Easterly, parallel with the North line of said lot #23,
a distance of 295.0 feet to the point of beginning of
the herein described tract. BEGINNING at the above
described point; thence continuing Easterly, parallel
with the North line of said Lot #23, a distance of
200.0 feet; thence Northerly parallel with the West line
of said Lot #23, a distance of 72.16 feet; thence
Westerly, parallel with the North line of said Lot #23,
a distance of 200.0 feet; thence Southerly parallel
with the West line of said Lot #23, a distance of 72.16
feet to the point of beginning. Parcel contains 0.331
acres, more or less, and is subject to any pertinent
easements of record.

33 PARCEL "F"

34 Part of the South 5 acres of Lot #23 in EDSALL'S
35 SUBDIVISION of LaGro Reserve, according to the plat
36 thereof, recorded in Deed Record 30, page 160, in the
37 Office of the Recorder of Allen County, Indiana, more
38 particularly described as follows: COMMENCING at the
39 Northwest corner of said Lot #23; thence Southerly
40 along the West line of said Lot #23, a distance of
41 214.4 feet; thence Easterly, parallel with the North
42 line of said Lot #23, a distance of 295 feet to the
43 point of beginning. BEGINNING at the above described
44 point; thence continuing Easterly, parallel with the

#462
1 North line of said Lot #23, a distance of 685 feet,
2 more or less, to the East line of said Lot #23; thence
3 Southerly along the East line of said Lot #23, a
4 distance of 221.78 feet to the Southeast corner of said
5 Lot #23; thence Westerly along the South line of said
6 Lot #23, a distance of 686.3 feet (deed) to the
7 Northeast corner of Lot #4 in Fleck's Subdivision,
8 recorded in Plat Book 15, page 58; thence Northerly,
9 parallel with the West line of said Lot #23, a distance
10 of 221 feet to the point of beginning. Parcel contains
11 3.48 acres, more or less, and is subject to any
12 pertinent easements of record.

13 and the symbols of the City of Fort Wayne Zoning Map No. F-
14 2, as established by Section 11 of Chapter 33 of the Code of
15 the City of Fort Wayne, Indiana are hereby changed
16 accordingly.

17 SECTION 2. That this Ordinance shall be in full force
18 and effect from and after its passage and approval by the
19 Mayor.


Councilmember

20 APPROVED AS TO FORM AND LEGALITY:

21 
22 J. TIMOTHY MCCAULAY, CITY ATTORNEY
23
24
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32

Read the first time in full and on motion by Henry
seconded by Redd, and duly adopted, read the second time by
title and referred to the Committee on Regulations (and the
City Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Common Council Conference Room 128, City-County
Building, Fort Wayne, Indiana, on _____, the _____, day
of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 3-12-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry
seconded by Redd, and duly adopted, placed on its passage.
PASSED ~~Lost~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>		
<u>BRADBURY</u>	<u>✓</u>			
<u>BURNS</u>	<u>✓</u>			
<u>EDMONDS</u>	<u>✓</u>			
<u>GIAQUINTA</u>	<u>✓</u>			
<u>HENRY</u>	<u>✓</u>			
<u>LONG</u>	<u>✓</u>			
<u>REDD</u>	<u>✓</u>			
<u>SCHMIDT</u>	<u>✓</u>			
<u>TALARICO</u>	<u>✓</u>			

DATED: 5-14-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Nicholas G. Schaff Deputy Clerk

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. 2-10-91
on the 14th day of May, 1991

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Nicholas G. Schaff Deputy Clerk

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 15th day of May, 1991,
at the hour of 11:30 o'clock P. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Nicholas G. Schaff Deputy Clerk

Approved and signed by me this 15th day of May,
1991, at the hour of 7:00 o'clock P. M., E.S.T.

1165LL
PAUL HELMKE, MAYOR

RECEIPT

CE # 16685

No 10815

COMMUNITY & ECONOMIC DEVELOPMENT

FT. WAYNE, IND., Feb 14 19 91

RECEIVED FROM Barnett & M. Wayne \$ 12.00

THE SUM OF One Hundred and no/one hundred 100 DOLLARS

ON ACCOUNT OF Reserving / Apple / other fees

PAID BY: CASH ☐ CHECK ☒ M.O. ☐

W. S. [Signature] AUTHORIZED SIGNATURE

PETITION FOR ZONING ORDINANCE AMENDMENT

RECEIPT NO. _____

THIS IS TO BE FILED IN DUPLICATE

DATE FILED _____

INTENDED USE _____

I/We the undersigned
(Applicant's Name or Names)

do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from a/an RA&RB District to a/an B-2-D District the property described as follows:

See ATTACHED EXHIBIT "A"

(Legal Description) If additional space is needed, use reverse side.

ADDRESS OF PROPERTY IS TO BE INCLUDED:

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

INDIANA

14 Venture, Summit Bank, Trustee One Summit Square, F.W.

W. Coleman SUPP TO

Elizabeth J. Tonn 5110 Daffodill Dr., F.W.

E. Elizabeth J. Tonn
FOR WM. KRAMER & CO. ESTABL

Steven J. & Dora M. Dager 1717 Reckeweg Dr., F.W.
(Name) (Address)

Steven J. Dager
(Signature)
Dora M. Dager

(If additional space is needed, use reverse side.)

Legal Description checked by _____
(OFFICE USE ONLY)

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice pertaining to the ordinance being sent to the newspaper for legal publication. If the request for deferral continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at which it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that an ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the matter for hearing before the City Plan Commission. (FILING FEE \$100.00)

Name and address of the preparer, attorney or agent.

DOUGLAS E. MILLER
(Name)

215 EAST BERRY ST. FORT WAYNE, IN
(Address & Zip Code)

(219) 423-9551
(Telephone Number)

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street, Fort Wayne, IN 46802 (PHONE: 219/427-1140).

Applicants, Property owners and preparer shall be notified of the Public Hearing approximately ten (10) days prior to the meeting.

Legal Description of property to be rezoned.

Owners of Property

Alma Storm	1525 Reckeweg Rd., F.W.	<i>Alma Storm</i>
Roy R. & Selma B. Hans	4721 Illinois Rd., F.W.	<i>Roy Hans</i>
Apple Glen Investors, LTD. (by: Covington Plaza, Inc. Gen. Ptr., Duane Bobeck, Pres.)	3333 W. Hamilton Rd., F.W.	<i>Duane Bobeck</i>
(Name)	(Address)	(Signature)

NOTE: All checks are to be made payable to: CITY OF FORT WAYNE

This form is to be filed in duplicate.

NOTICE:

FILING OF THIS APPLICATION GRANTS THE CITY OF FORT WAYNE PERMISSION TO POST "OFFICIAL NOTICE" ON THE PETITIONED PROPERTY.

FAILURE TO POST, OR TO MAINTAIN POSTING CAN PREVENT THE PUBLIC HEARING FROM BEING HELD.

2/14/91
OK-002

PARCEL A

Part of Lot # 11 in Samuel Edsall's Subdivision of LaGro Reserve, Section 8, Allen County, Indiana, more particularly described as follows: BEGINNING at the Northwest corner of Lot # 11 in Samuel Edsall's Subdivision in the LaGro Reserve, Section 8, Allen County, Indiana; thence South along the West line of Lot # 11 a distance of 714.86 feet; thence East parallel to the North line of Lot # 11 a distance of 150 feet; thence parallel to the West line of Lot # 11 a distance of 300 feet; thence East parallel to the North line of Lot # 11 a distance of 118.5 feet; thence North and parallel to the West line of Lot # 11 a distance of 414.86 feet to a point on the North line of Lot #11, said line also being the centerline of State Road #14 and Illinois Road; thence West along the North line of Lot # 11, said line also being centerline of State Road #14 and Illinois Road, a distance of 268.5 feet to the point of beginning, containing 3.59 acres, subject to road rights-of-way and easements.

PARCEL B

The South 340 feet of Lot # 10 in EDSALL'S SUBDIVISION of LaGro Reserve, according to the plat thereof, recorded in Deed Record 30, page 160, in the Office of the Recorder of Allen County, Indiana.

PARCEL C

Part of Lot # 19 in EDSALL'S SUBDIVISION of LaGro Reserve, recorded in Deed Record 30, page 160, in the Office of the Recorder of Allen County, Indiana, and more particularly described as follows: COMMENCING at the Southwest corner of said Lot # 19; thence Easterly along the South line of said Lot # 19 a distance of 227 feet to the point of beginning. BEGINNING at the above described point; thence Northerly, parallel with the West line of said Lot # 19, a distance of 89.26 feet; thence Easterly, parallel with the South line of said Lot # 19 a distance of 269.26 feet, more or less; thence Southerly a distance of 89.26 feet to a point on the South line of said Lot # 19; thence Westerly along the South line of said Lot # 19, a distance of 269.56 feet, more or less, to the point of beginning. Parcel contains 0.54 acres, more or less, and is subject to any pertinent easements of record.

PARCEL D

Part of Lot # 22 in Edsall's Subdivision of LaGro Reserve, according to the plat thereof, recorded in Deed Record 30, page 160, in the Office of the Recorder of Allen County, Indiana, more particularly described as follows: BEGINNING at a point on the North line of said lot situated 227.0 feet East of the Northwest corner of said Lot # 22; thence North 89 degrees 29 minutes East along said North line a distance of 754.6 feet, more or less, to the Northeast corner of said lot; thence South 0 degrees 02 minutes 48 seconds West along the East line of said lot and Lot # 23 a distance of 652.4 feet, more or less; thence South 89 degrees 29 minutes West parallel to the North line of said Lot # 22 a distance of 485.0 feet; thence North 0 degrees 07 minutes West a distance of 72.16 feet; thence South 89 degrees 29 minutes West a distance of 268.0 feet to a point located 227.0 feet East of the West line of said Lot # 23; thence North and parallel to said West line a distance of 577.9 feet to the point of beginning, containing 10.81 acres, more or less, and subject to any pertinent easements of record.

PARCEL E

Part of Lot # 23 in EDSALL'S SUBDIVISION of LaGro Reserve, in Section 8, Township 30 North, Range 12 East, Allen County, Indiana, more particularly described as follows: COMMENCING at the Northwest corner of said Lot # 23; thence Southerly, along the West line of said Lot # 23, a distance of 214.4 feet; thence Easterly, parallel with the North line of said Lot # 23, a distance of 295.0 feet to the point of beginning of the herein described tract. BEGINNING at the above described point; thence continuing Easterly, parallel with the North line of said Lot # 23, a distance of 200.0 feet; thence Northerly parallel with the West line of said Lot # 23, a distance of 72.16 feet; thence Westerly, parallel with the North line of said Lot # 23, a distance of 200.0 feet; thence Southerly parallel with the West line of said Lot # 23, a distance of 72.16 feet to the point of beginning. Parcel contains 0.331 acres, more or less, and is subject to any pertinent easements of record.

PARCEL F

Part of the South 5 acres of Lot # 23 in EDSALL'S SUBDIVISION of LaGro Reserve, according to the plat thereof, recorded in Deed Record 30, page 160, in the Office of the Recorder of Allen County, Indiana, more particularly described as follows: COMMENCING at the Northwest corner of said Lot # 23; thence Southerly along the West line of said Lot # 23, a distance of 214.4 feet; thence Easterly, parallel with the North line of said Lot # 23, a distance of 295 feet to the point of beginning. BEGINNING at the above described point; thence continuing Easterly, parallel with the North line of said Lot # 23, a distance of 685 feet, more or less, to the East line of said Lot # 23; thence Southerly along the East line of said Lot # 23, a distance of 221.78 feet to the Southeast corner of said Lot # 23; thence Westerly along the South line of said Lot # 23, a distance of 686.3 feet (deed) to the Northeast corner of Lot # 4 in Fleck's Subdivision, recorded in Plat Book 15, page 58; thence Northerly, parallel with the West line of said Lot # 23, a distance of 221 feet to the point of beginning. Parcel contains 3.48 acres, more or less, and is subject to any pertinent easements of record.

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on March 12, 1991 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-91-03-13; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on March 18, 1991.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission gave No Recommendation on such proposed ordinance.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held May 6, 1991.

Certified and signed this
8th day of May 1991.

A handwritten signature in dark ink, appearing to read "R. Hutner", is written over a horizontal line.

Robert Hutner
Secretary

DRAFT

REGIONAL SHOPPING CENTER DEVELOPMENT AGREEMENT

THIS REGIONAL SHOPPING CENTER DEVELOPMENT AGREEMENT (the "Agreement") is entered into by and between APPLE GLEN INVESTORS, LTD., an Indiana limited partnership, ("Developer"), the CITY OF FORT WAYNE, INDIANA, a municipal corporation ("City"), and the FORT WAYNE REDEVELOPMENT COMMISSION ("Commission");

WITNESSETH:

WHEREAS, Developer is the fee simple owner of 127.86 acres of real estate being located at the west quadrant of the West Jefferson Boulevard and Illinois Road intersection, Fort Wayne, Allen County, Indiana, which real estate is more particularly described in Exhibit "A" attached hereto (said real estate being hereinafter described as the "Development Site"); and

WHEREAS, approximately 122.10 acres of the Development Site is zoned B-2-D under the City of Fort Wayne Zoning Ordinance (the "Ordinance") and permits the development of a regional shopping center commonly known as "Apple Glen"; and

WHEREAS, Developer has obtained approval of a preliminary site plan dated May 2, 1991 with conditions established by the Plan Commission, (the "Preliminary Site Plan") from the Fort Wayne City Plan Commission (the "Plan Commission"), which Preliminary Site Plan shows the location of the improvements to be constructed upon the Development Site and other matters as required by the Ordinance. A copy of the Preliminary Site Plan is attached hereto as Exhibit "B"; and

WHEREAS, Developer proposes that the Development Site be developed in phases, with the first phase being the construction of a Wal-Mart discount store (the "Wal-Mart Building") and other capital, infrastructure and landscaping improvements; and

WHEREAS, as a condition precedent to obtaining approval of the Preliminary Site Plan, the Plan Commission imposed certain conditions upon the Developer and also requested the Developer undertake and finance certain improvements to the Development Site and other off-site property; and

WHEREAS, in addition to the improvements to be undertaken and financed by the Developer, the City contemplates undertaking various off-site improvements as part of the Agreement. City Improvements will be financed by a tax increment revenue bond, or a series of such bonds, issued by the City through the Commission pursuant to I.C. 36-7-14 et. seq.; and

WHEREAS, the City is desirous of obtaining a commitment from Developer that it will purchase or cause to be purchased the bonds from the City in order to make certain funds available to

complete the City Improvements as contemplated to be completed by the City under the tax increment revenue bond financing; and

WHEREAS, the parties desire to memorialize the agreements, conditions and understandings pertaining to the Plan Commission's approval of the Preliminary Site Plan and the financing of various improvements arising from the future development of Apple Glen.

NOW, THEREFORE, in consideration of the matters set forth in the recital paragraphs above, the parties agree as follows:

1) Conditions of Preliminary Approval

Developer agrees to comply with those conditions for approval of the Preliminary Site Plan as set forth in Exhibit "C" attached hereto (the "General Conditions"). Notwithstanding this agreement, it is recognized by the Developer that Developer will be responsible for any further conditions established by the Plan Commission in reviewing and approving the secondary Development Plan as required and permitted by Fort Wayne City Ordinance. The General Conditions will be undertaken at the Developer's cost and will be completed no later than the time period specified for each condition.

2) Zoning Boundary

The preliminary Site Plan depicts and describes a zoning boundary line which is approximately 295 feet east from the center line of Reckeweg Road. The Developer agrees that there shall be no rezoning of the property situated to the west of such zoning boundary line (and to the east of Reckeweg Road) to a B-2-D or other commercial, business, office, or industrial classification.

3) Set Back Requirement

With respect to the west and southern portions of the Development Site which abut existing residential property, the Developer shall, in all cases, establish a seventy-five (75) foot building set back requirement from the B-2-D district boundary line, except as where waived by the Plan Commission. In addition, the Preliminary Site Plan depicts and describes a building set back line (the "Agreed Set Back Line") along the west and southern portions of the Development Site which, in some cases, creates a more restrictive building set back requirement than the seventy-five (75) foot minimum. Developer agrees that no building will be erected on the Development Site which is located either to the south or west of the agreed set back line. Notwithstanding the foregoing, Developer shall have the

right to construct and install utility and infrastructure improvements on the Development Site and to the west and south of the Agreed Set Back Line. If such construction, installation, and maintenance of such improvements necessitate the permanent removal of any existing landscaping, it will be replaced with other landscaping consistent with the landscape plan as referenced below.

4) Landscape Plan

A) In addition to the General Conditions set forth in Exhibit "C", Developer, at the time of secondary plan submittal for the Wal-Mart Building, shall submit its landscape plan for the Development Site which will incorporate such conditions as presently proposed by the City's Office of Community and Economic Development. Developer's final landscape plan shall be subject to approval by the City's Office of Community and Economic Development, and Developer agrees to undertake such landscaping, mounding, planting, buffering, screening, and berming as contemplated by the approved landscape plan pursuant to a reasonable time schedule mutually agreed to by and between Developer and the City's Office of Community and Economic Development.

B) Developer agrees to record a restrictive covenant on or against property that he owns which is not contained within the B-2-D development, located along the south and west corners of the development. Such covenant shall provide for the installation and maintenance in perpetuity of the landscape buffers/screening as depicted on the approved Preliminary Site Plan.

5) Acoustic Analysis

In addition to the General Conditions set forth in Exhibit "C", the Developer shall undertake, at its expense, an acoustic analysis which will address current and future noise levels where any development abuts existing residential properties. Pursuant to this study, Developer will design and install noise reducing improvements to ensure that noise levels are maintained at the lowest levels possible. The Developer shall be responsible for retaining the services of an independent engineer to conduct the analysis and shall be solely responsible for determining the background criteria and identifying the ambient noise levels under the analysis. The improvements to be made and the projected change in the ambient noise level shall be clearly identified in the study, and approved by the Plan Commission in the secondary development plan.

6) Traffic Improvements

In addition to the General Conditions set forth in Exhibit "C", Developer agrees to provide the following traffic and traffic related improvements at its cost and prior to the opening of the Wal-Mart Building on the Development Site:

- A) Developer shall dedicate additional right-of-way along Illinois Road to the City so that there will be a minimum of seventy-five (75) feet from center line for the west section from Thomas Road to Old Illinois Road and a minimum of eighty (80) feet from center line for the east section from Old Illinois Road to West Jefferson Boulevard. The Developer shall also grant the City additional right-of-way so that there is a minimum right-of-way of eighty (80) feet from the center line of West Jefferson Boulevard.
- B) Developer shall provide such detail on its traffic engineering drawings in order to permit the City's Traffic Engineering Department to determine how the Development Site will impact the existing adjacent road network. Further, the Developer acknowledges that additional comments and/or requirements will be made by the City's Traffic Engineering Department under applicable City policies and procedures when secondary site plans and future phases of Apple Glen are submitted.
- C) The intersection of Illinois Road and Thomas Road will be signalized.
- D) The north and south approaches to the intersection of Illinois Road and Thomas Road shall allow for a minimum of two (2) thru lanes and opposing left turn lanes. The west approach shall allow for a minimum of four (4) thru lanes, opposing left turn lane and deceleration/auxiliary right turn lane into Apple Glen Boulevard. The east approach shall allow for a minimum of (4) through lanes, opposing left turn lane and recovery land from Apple Glen Boulevard. An unmountable center curb will be constructed to protect the opposing left turn lanes. The east approached center curb shall be extended for a distance of approximately three hundred (300) feet east on Illinois Road. The west curb shall be extended west past the existing retail business entrance. Developer will permit the existing retail building shown on the Preliminary Site Plan to have access to the proposed Apple Glen Boulevard and such access shall be a minimum distance of one hundred fifty (150) feet from the Illinois Road intersection.

- E) A right in/out access will be constructed along Illinois Road for the proposed branch bank and restaurant location. The center curb on Illinois Road will be extended to prevent left turns, and a deceleration lane and recovery lane is extended to connect with the proposed auxiliary right turn lane. The proposed branch bank and restaurant locations will be served by a frontage road extended to approved approaches if the design of such frontage road is capable of handling and stacking traffic from the Development Site and is approved by the City's Traffic Engineering Department.
- F) The northeast and southwest approaches to the intersection of Apple Glen Boulevard and West Jefferson Boulevard shall allow for the minimum of four (4) thru lanes, two (2) left turn lanes for northeast bound traffic turning into Apple Glen Boulevard, an opposing left turn lane for southwest bound traffic an auxiliary right turn lane for southwest bound traffic turning into Apple Glen Boulevard. The dual left turn lanes shall be marked as only one (1) lane until signalization of the intersection is warranted. An unmountable center curb will be constructed to protect the opposing left turn lanes.
- G) The intersection of West Jefferson Boulevard and Apple Glen Boulevard will be signalized only at such time as signalization is warranted.
- H) All traffic signalization provided by Developer shall be interconnected to the signal controller at Illinois Road and West Jefferson Boulevard via two (2) inch steel conduit and 24c-22 (12 pair) telephone type cable. All necessary signal controllers shall be a Traffic Control Technologies model LC-8000, capable of interconnect with an LM-100 arterial computer system.
- I) In the event the improvements undertaken by Developer pursuant to subparagraph (F) above, impact upon and affect the intersection of West Jefferson Boulevard and Randall Road, Developer shall construct a minimum of four (4) thru lanes and opposing left turn lanes for the northeast and southwest approaches to the intersection of West Jefferson Boulevard and Randall Road. The existing deceleration lane into Professional West office complex along West Jefferson Boulevard will be reconstructed. The existing Professional Parkwest office complex shall have access to Apple Glen Boulevard only if the engineering plans and building

location for the Development Site make such access feasible.

7) Future Traffic Improvements

Developer and City agree that the improvements set forth below are requirements for site development approval and will be necessary in the future for the benefit of the general public. Developer agrees to participate in the cost, design, and construction of said improvements. Developer acknowledges that the cost of said improvements will include the relocation, construction and construction engineering. Developer further acknowledges that the City's present policy in determining allocation of costs for similar and like kind improvements is forty percent (40%) of the total project cost being allocated to the City and sixty percent (60%) of the total project cost being allocated to the developer. The Plan Commission may require the Developer in future, and at the time of approval of any secondary submittal (other than for the Wal Mart Building) to address in more specific detail the actual timing and cost allocation of the improvements set forth below:

- A) The extension of two (2) lanes of west bound traffic from the existing Old Illinois Road to permit a merger and/or connection with Illinois Road just east of Thomas Road consistent with the Illinois/Jefferson corridor transportation study of July, 1987, Parkwest Alternative III. As a result of such extension, the intersection which comprises the southbound leg of Old Illinois Road, the proposed northeast Apple Glen approach, and Illinois Road will be reconstructed to allow for the new west bound traffic pattern.
- B) The northwestern approach of the intersection of Illinois Road and West Jefferson Boulevard will be widened to allow for an auxiliary right turn lane twelve (12) feet wide from Illinois Road to West Jefferson Boulevard.
- C) The southwestern approach of the intersection of West Jefferson Boulevard and Ardmore Avenue will be widened to allow for an auxiliary right turn lane twelve (12) feet wide with a two-hundred fifty (250) foot tangent and a two-hundred fifty (250) foot taper.

8) Establishment of Economic Development Area

- A) Commission and City intend to pursue a designation of the entire Apple Glen Development Site including the Wal-Mart development as an economic development area and a tax allocation area pursuant to I.C. 36-7-14 et.

the economic development area which contains the Wal-Mart Building development as part of the economic development area and a tax allocation area, the final zoning of the development site for the use intended by the Developer, and the Commission and City otherwise taking such steps as may be necessary and required to implement tax increment financing in accordance with applicable law, Developer agrees to purchase, or cause a bank, financial institution, or other entity acceptable to Developer to purchase from the City private placement bonds issued in connection with such tax incremental financing in an amount not less than Five Hundred Thousand and no/100 Dollars (\$500,000.00). The determination of the bond amount for Phase I will be determined on the basis of the financial feasibility study conducted by an independent financial advisor selected by the Redevelopment Commission. City and Developer acknowledge that it will be necessary to accrue interest from the date of issuance of bonds and to add the same to principal until such time as tax increment becomes available to commence retirement of the bonds. Accordingly, the obligation of the Commission to issue the bonds and of the City to complete the City Improvements is conditioned upon the obtaining of a feasibility study showing that the proceeds of the bonds will be sufficient to cover construction costs, issuance costs, supervisory costs, and interest expense for the City Improvements and that there will be sufficient tax increments to retire the bonds. In the event the City and/or the Commission determine that the proceeds of the bonds or the tax increment is not adequate, they may, at their election, reduce the scope of the work contemplated to meet economic projections, or elect not to complete the work, in which event the Developer shall be relieved of all obligation to purchase the bonds.

- B) City agrees to use such bond proceeds solely for the City Improvements and the issuance expenses of the bonds including reasonable supervisory costs for establishing the district and issuing the bonds. The City Improvements shall be those improvements as determined by the City which meet Indiana statutory requirements. City will endeavor to commence the design and engineering of such improvements or to approve the design and engineering performed by private engineering services, as the case may be, as soon as possible, and to furnish Developer with construction bids or other evidence reasonably acceptable to Developer prior to the closing of such bond issue so that the City Improvements can be completed at a cost not greater than the net amount of the bond proceeds.

Preliminary and design engineering costs will be the responsibility of the Developer, although such costs may be reimbursed by the bond issue. Upon issuance of the bonds, City shall immediately commence construction of the City Improvements and shall diligently prosecute the same to completion in conformance with a construction schedule approved by the Board of Public Works and Safety.

- C) It is agreed that such bonds will be at a market rate for tax exempt bonds for similar issues; provided, however, in the event it is determined such bonds will not qualify for exemption from federal income tax, the rate of interest shall be adjusted upward to reflect a taxable rate which would provide an equivalent yield after the payment of federal income tax to that of a tax exempt bond. Developer agrees to purchase, or to cause its designated financial institution to purchase, such bonds at such time as the City has completed establishment of the tax allocation area, has taken such other steps as necessary to issue the bonds, and has satisfied the other conditions or requirements of City hereunder, so that the improvements as contemplated to be made by the City can be made immediately thereafter, it being understood that Developer's obligation to purchase such bonds is conditioned upon construction of the Wal-Mart Building upon the Development Site. In the event the Wal-Mart store has not started construction within twelve (12) months from the date of this agreement, the Developer agrees to reimburse the Redevelopment Commission for staff costs in an amount not to exceed ten thousand dollars (\$10,000) for the establishment of the Economic Development Area and Allocation Area. The City and Developer agree that no other cost will be incurred by the Commission until after the Wal-Mart store begins construction. In the event the Wal-Mart store is not completed within twelve months after construction begins, the developer agrees to reimburse the Redevelopment Commission for all reasonable costs associated with the establishment of the Economic Development Area and Allocation Area, including feasibility study, bond counsel, and staff time. The Developer's agreement to purchase the bonds shall also be subject to the delivery to the Developer of an opinion of nationally recognized bond counsel that the bonds have been, in all respects, validly issued.

- D) The Redevelopment Commission may issue future bonds for capital improvements within the tax allocation area at the time new additions to the Apple Glen Development occur at its discretion. The Developer may participate

in the purchase of such bonds as may be appropriate to ensure the timing of capital improvements so that such improvements will be in place to serve the development or to alleviate any traffic, drainage, or other problems to surrounding property owners or the general public at the time of construction of additions to Apple Glen.

9) Rezoning of Property

Developer's obligations under this Agreement are contingent upon it obtaining rezoning of approximately 16.97 acres of property within the Development Site as a B-2-D zoning classification. Developer filed with the City on April 18, 1991 an alternative preliminary development plan for Apple Glen which excludes all property sought to be rezoned by Developer. Nothing herein shall be deemed to be applicable to the alternative preliminary development plan filed with the City of April 18, 1991.

10) Agreement of Cooperation

Developer, City, and Commission agree to cooperate in such manner as may be necessary to effect the terms and conditions of this Agreement, including the preparation and approval of a final development site plan for the first phase of Apple Glen which will include the Wal-Mart Building. City shall cooperate with Developer, in a timely fashion, in processing, obtaining and implementing any further consents, approvals or requirements as necessary to effect the terms of this Agreement, and such consents, approvals or requirements shall not be withheld by City in an arbitrary or capricious manner.

11) Notice to Neighborhoods of Amendments to the Development Plan

Should the Developer file an amendment to the Development Plan in the future, it shall send a notice and copy of such petition to the following Neighborhood Associations, addressed to each officer of the Association as shown in neighborhood listings maintained by the City's Division of Community and Economic Development:

- A) Reckeweg Road Area Association
- B) Wildwood Park Community Association
- C) Westwood-Fairway Association

Such notice shall also be sent to the Fourth District City Council Representative. All such notices are to be sent a

minimum of ten (10) days prior to the Plan Commission meeting.

12) Miscellaneous

This agreement is intended to run with and bind the Development Site and shall be binding upon the heirs, successors and assigns of the parties hereto. This agreement shall not limit the Plan Commission in imposing conditions on amendments to the Development Plan that are consistent with Fort Wayne Ordinance (Chapter 33) setting forth requirements for secondary development plan approval, and accepted standards for responsible development and growth.

IN WITNESS WHEREOF, this Agreement is signed by the parties hereto on the ____ day of May, 1991.

ATTEST:

CITY OF FORT WAYNE, INDIANA

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

FORT WAYNE REDEVELOPMENT
COMMISSION

By: _____

By: _____

Its: _____

Its: _____

APPLE GLEN INVESTORS, LTD., an Indiana limited partnership

By: _____

Covington Plaza Center, Inc., an Indiana corporation, its
General Partner by H. Duane Bobeck, its President

STATE OF INDIANA }
 } SS:
COUNTY OF ALLEN }

Before me, the undersigned, a Notary Public in and for said County and State, this ____ date of _____, 1991, personally appeared H. Duane Bobeck, President of Covington Plaza Center, Inc., the General Partner of Apple Glen Investors, Ltd., an Indiana limited partnership, and acknowledged the execution of the foregoing to be his voluntary act and deed, for the uses and purposes therein set forth. WITNESS my hand and notarial seal.

Commission Expires: _____

Notary Public _____

County of _____
Residence: _____

Printed Name _____

EXHIBIT C

General Conditions

- A) Secondary plan submittals of the Development Site will include all items required by the Ordinance and those additional items stipulated by and between the Developer and the Plan Commission as a result of review of the Preliminary Site Plan by City Departments.
- B) At time of secondary plan submittal for the Wal-Mart Building, contours of the Development Site will be provided together with a description of how site drainage will be addressed.
- C) At time of any secondary plan submittal, intersection geometrics will be provided for that area of the Development Site covered by the secondary plan submittal.
- D) At time of any secondary plan submittal, pedestrian circulation features will be addressed for that area of the Development Site covered by the secondary plan submittal.
- E) All signage on the Development Site will comply with the requirements of the Sign Ordinance of the City of Fort Wayne. Any secondary plan submittal shall include proposed signage renderings and locations for that area of the Development Site covered by the secondary plan submittal.
- F) At time of secondary plan submittal for the Wal-Mart Building, Developer will provide a breakdown of building coverage to net site area for all phases of the Development Site.
- G) At the time of secondary plan submittal for the Wal-Mart Building, all existing tree masses on the Development Site will be identified together with a clear description of which tree masses will remain. Remaining tree masses will be incorporated into the Landscape Plan.
- H) At time of secondary plan submittal for the Wal-Mart Building, Developer will provide all easements, rights-of-way agreements and other documents pertaining to the proposed location of Apple Glen Boulevard and its intersection off of Illinois Road.
- I) Existing off-premise signs on the Development Site will be removed upon completion of the Wal-Mart Building and prior to the release of the certificate of occupancy for said building.
- J) Developer, if required, will post a development performance bond for the cost of improvements related to the Development Site (other than building improvements) to be undertaken by

Developer. Any required performance bond will be issued prior to the commencement of the improvement covered by the bond. The following improvements will be covered by the bond:

- 1) All and any off-site improvements as identified in this agreement related to traffic and drainage.
 - 2) Landscaping requirements pertaining to the west property line, as identified in the Landscape Plan.
 - 3) All interior surface-drainage improvements.
- K) All future plan submittals for the Development Site shall be reviewed and approved by the Driveway Subcommittee/Transportation Technical Committee of the Allen County Plan Commission. In addition, all future temporary access to the Development Site must be approved by the Driveway Subcommittee of the Allen County Plan Commission.
- L) At the time of any secondary plan submittal, a lighting plan will be submitted for that area of the Development Site covered by the secondary plan submittal which includes areas to be lighted, the types of fixtures to be used, and the lighting intensity level for all areas to be lighted. Parking lot and/or security lots on the Development Site shall be of a design and installation to prevent glare to passing motorists and/or abutting property owners.
- M) If any street lighting facilities need to be relocated on the Development Site, Developer shall authorize the City to perform such work and authorize the invoice for such work.
- N) If the Developer installs street lighting along the proposed Apple Glen Boulevard, it will meet the minimum requirements of the Board of Public Works and Safety.
- O) At the time of any secondary plan submittal, a parking lot plan will be submitted for that area of the Development Site covered by the secondary plan submittal which includes a description of parking lot drainage, set backs, screening, landscaping, lighting, stall dimensions and traffic flows.
- P) All construction undertaken by the Developer in City right-of-way will be done to standards established by the City Street Engineering Department.
- Q) Any secondary plan submittal shall include a sanitary sewer plan/profile for the area of the Development Site covered by the secondary plan submittal. Such plan/profile will be subject to the review and approval of the City's Water

Pollution Control Engineering Office. Each building on the Development Site will have an independent six (6) inch building sewer connection to a public main, or other design acceptable to the City of Fort Wayne.

- R) Any secondary plan submittal shall include a storm drainage plan for the area of the Development Site covered by the secondary plan submittal. Such plan will include shed maps, storm calculations, and detention pond calculations.
- S) At time of secondary plan submittal for the Wal-Mart Building, Developer will provide a capacity study of the outfall ditch, including a profile, cross sections and shed information as necessary from the Development Site to the Junk ditch. The Developer acknowledges that detention requirements for the Development Site may exceed a five (5) year pre-developed discharge rate and a one hundred (100) year developed storage capacity.
- T) Any drainage plan(s) submitted in the future will include provisions for erosion and sedimentation controls.
- U) An easement and maintenance agreement will be granted to the City for the detention pond upon the Development Site. Said easement will be delivered prior to the opening of the Wal-Mart Building. Developer shall grant future easements of a similar nature in the event the size of the detention pond is increased.

#463
ORIGINAL

ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Zoning Map Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE Generally located east of Reckeweg Road, south of Illinois Road and north of Ridgelane Drive on the North side of W. Jefferson Bl.

2-91-03-13

EFFECT OF PASSAGE Property is presently zoned RA & RB - Suburban Residential.
Property will become B-2-D - Regional Shopping Center.

EFFECT OF NON-PASSAGE Property will remain RA & RB - Suburban Residential.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE (J.N.)) _____

BILL NO. Z-91-03-13

REPORT OF THE COMMITTEE ON REGULATIONS

THOMAS C. HENRY, CHAIRMAN
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, BRADBURY

Committee of the Whole
Committee of the Whole
WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) ^{XXXXXXXXXX} amending the City of
Fort Wayne Zoning Map No. F-2

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Thomas C. Henry
Janet G. Bradbury
David C. Long
W. Schmidt
Edmonds
Clatus R. Edgus
Mark C. G. Quint
Samuel J. Talarico

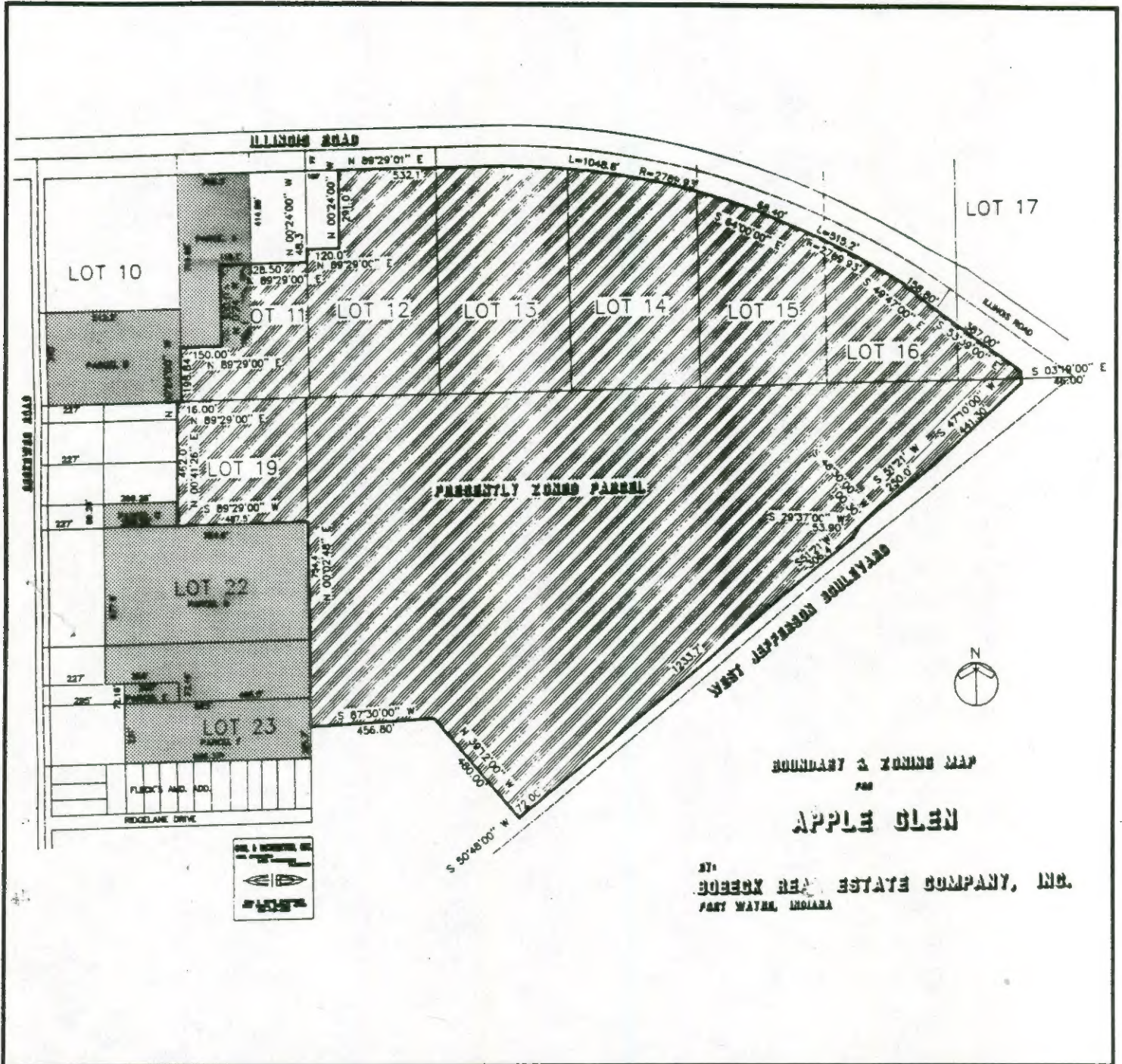
DATED: 5-14-91

Sandra E. Kennedy
City Clerk

REZONING PETITION

AREA MAP

CASE NO. #463



COUNCILMANIC DISTRICT NO. 4

Map No.: F-2
LW 2-22-91

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	IA	Interchange Access
PUD	Planned Unit Dev.	POD	Professional Office District	MHP	Mobile Home Park